

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION**

MARCUS L. DANIELS,  
ADC #118133

PLAINTIFF

v. 3:12-cv-00150-SWW-JJV

BLAIR, Sheriff, Crittenden County; *et al.*

DEFENDANTS

**ORDER**

Defendants Dexter, Frazier, and Lindsey move to set aside service of process in this case as improper (Doc. No. 22). Defendants state they were not employed at the Crittenden County Sheriff's Office on the date the summons was received and accepted by an unidentified county employee (Doc. Nos. 11, 13) and the Sheriff's Office later returned the Summons for Dexter and Frazier as "unexecuted." (Doc. Nos. 15, 16). Defendants cite FED.R.CIV.P. 4(b) and 5(b) in support of their Motion (Doc. No. 23).

The Court finds the Motion should be granted in part as to Defendants Dexter and Frazier, pursuant to Rule 5(b)(2)(B)(ii).<sup>1</sup> The Motion will be denied as to Defendant Lindsey Peterson, since the docket reflects no return of summons with respect to this individual. Defendants also will be directed to provide to the Court, under seal, the last-known addresses of these Defendants. Accordingly,

IT IS, THEREFORE, ORDERED that:

1. Defendants' Motion to Set Aside Summons Returned Executed (Doc. No. 22) is GRANTED in part, as to Defendants Dexter and Frazier.

---

<sup>1</sup>Rule 5(b)(2)(A) and (B) provide for personal service by hand, or by leaving it "at the person's office with a clerk or other person in charge...."

2. Defendants' Motion to Set Aside Summons Returned Executed (Doc. No. 22) is DENIED as moot as to Defendant Lindsey Peterson.

3. Defense counsel shall provide to the Court, under seal, the last-known addresses of Defendants Dexter, Frazier, and Lindsey Peterson within ten days of this Order.

IT IS SO ORDERED this 22nd day of August, 2012.



---

JOE J. VOLPE  
UNITED STATES MAGISTRATE JUDGE